

D.T.E. 01-36/02-20

Petitions of Western Massachusetts Electric Company for approval of its Transition Charge Reconciliation filing for the periods January 1, 2000 through December 31, 2000 and January 1, 2001 through December 31, 2001.

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FOR: WESTERN MASSACHUSETTS ELECTRIC  
COMPANY  
Petitioner

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-and-  
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FOR: OFFICE OF THE ATTORNEY GENERAL  
Intervenor

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FOR: ALTERNATE POWER SOURCE, INC.  
Limited Participant

I. INTRODUCTION

On March 30, 2001, pursuant to G.L. c. 164, § 1A(a), 220 C.M.R. § 11.03(4) and the Restructuring Settlement Agreement approved by the Department of Telecommunications and Energy (“Department”) in Western Massachusetts Electric Company, D.T.E. 97-120-E (2000), Western Massachusetts Electric Company (“WMECo” or “Company”) filed with the Department its 2001 reconciliation filing for the calendar year 2000. That matter was docketed as D.T.E. 01-36.

On November 28, 2001, WMECo filed with the Department a Rate Change Filing along with proposed changes to WMECo’s tariffs (“Rate Change Filing”) pursuant to G.L. c. 164, § 1A(a), 220 C.M.R. § 11.03(4) and the Restructuring Settlement Agreement approved by the Department in D.T.E. 97-120. The proposed changes in rates, effective January 1, 2002, included the following: a transition charge rate of \$0.01357 per kilowatt hour (“KWH”); a transmission rate adjustment of \$0.00042 per KWH; and a standard offer service rate of \$0.04841 per KWH. Further, the Company proposed changes in charges for energy efficiency and renewables programs pursuant to G.L. c. 25, §§ 19 and 20. That matter was docketed as D.T.E. 01-101.

On December 27, 2001, the Department approved WMECo’s tariffs to take effect on January 1, 2002, subject to further investigation and reconciliation. Western Massachusetts Electric Company, D.T.E. 01-101 (2001). On March 29, 2002, WMECo filed its reconciliation filing for the calendar year 2001. That matter was docketed as D.T.E. 02-20. On July 9, 2002, WMECo amended its filings in D.T.E. 01-36 and D.T.E. 02-20 to reflect the Department’s directives in Western Massachusetts Electric Company, D.T.E. 00-33 (2002).

The Department conducted a public hearing and procedural conference on August 13, 2002. The Attorney General filed notice of intervention pursuant to G.L. c. 12, § 11E. Alternate Power Source, Inc. (“APS”), was granted limited participant status in these proceedings.<sup>1</sup> On October 11, 18, and 22, 2002, the Department granted the joint motions of the Company and Attorney General to suspend the procedural schedule to allow more time to finalize a settlement. On October 18, 2002, the Company responded to twenty-two Department information requests.<sup>2</sup> On December 3, 2002, the Company and Attorney General (together, “Parties”) filed: (1) a Joint Motion for Approval of Offer of Settlement (“Joint Motion”); and (2) an Offer of Settlement (“Settlement”) that purportedly resolves all transition charge issues in D.T.E. 00-33, D.T.E. 01-36, and D.T.E. 02-20. No comments were filed on the Settlement.

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<sup>1</sup> APS appealed the Hearing Officer’s Ruling on November 25, 2002. Since the issues APS seeks to address through its intervention are outside the scope of the proposed Settlement addressed in this Order, APS’ appeal will be addressed in a separate Order.

<sup>2</sup> On its own motion, the Department hereby moves those twenty-two information requests, marked as DTE-1-1 through DTE-1-22 into the record. Additionally, the Department moves those information requests issued informally by the Attorney General and provided by the Company to accompany the Settlement on December 5, 2002 into the record. These Attorney General requests shall be marked as AG-1-1 through AG-1-43, AG-2-1 through AG-2-29, AG-3-1 through AG-3-9, and AG-4-1 through AG-4-9.

## II. THE SETTLEMENT

The Settlement states that it resolves all issues relating to the reconciliation of transition costs and revenues for calendar years 1998 through 2001 (“reconciliation period”) (Settlement at § III, and § V; Joint Motion at 1). The Settlement establishes a reconciliation of transition-related costs and revenues for the reconciliation period (id.). The Settlement states that it corrects several errors in calculation of transition costs totaling \$396,034 (Settlement at § II). The Company provided an explanation for these corrections (Settlement, Attachment 1).

Under the terms of the Settlement, WMECo shall not seek recovery of \$7.396 million of regulatory assets entered on the books of the Company, but no specific regulatory asset is identified (Settlement at § IV(a)). The \$7.396 million adjustment is made from a base that includes the \$396,034 in corrections to the transition costs that are described above (id.). Further, the Settlement requires WMECo to annually book 50 percent of the inter-Company tax liability created as a result of WMECo’s sale of its share of the Northfield Mountain Hydro Electric Facility (“Northfield System”) to an affiliate as a rate base deduction to the transition costs starting in calendar year 2000 (Settlement at § IV(b)).<sup>3</sup> The remaining 50 percent shall be recovered by the Company and shall not be credited to WMECo’s customers through the

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<sup>3</sup> In the Company’s amended filings in D.T.E. 01-36/02-20 dated July 8, 2002, WMECo made an adjustment to its transition costs to remove the rate base credit for taxes associated with the gain on the sale of the Northfield System. According to the Company, the credit was removed because ratepayers received the full benefit of the sale when the Company reduced stranded costs by the pretax gain on the sale.

transition charge or elsewhere (id.). This arrangement shall be effective until the deferred inter-Company tax liability declines to zero (id. at 5).

The Settlement states that the Parties have not agreed on the issues of transmission related costs and revenues and Standard Offer Service costs and revenues (Settlement at § V and § VI(5)). In addition, the Settlement states that, other than where expressly stated, the Settlement: (1) shall not constitute an admission that any allegation or contention in this proceeding is true or false; and (2) shall not in any respect constitute a determination by the Department as to the merits of any issue raised during the proceedings (id. at § VI(1)). The Settlement also states that it establishes no principles and, except as to those issues resolved by approval of this Settlement, shall not foreclose any party from making any contention in any future proceeding (id. at § VI(2)).

The Settlement provides that the content of Settlement negotiations (including work papers and documents produced in connection with the Settlement) shall be confidential (id. at § VI(3)). The Settlement also states that all offers of settlement are without prejudice to the position of any party or participant presenting such offer (id.). The Settlement provides that the content of Settlement negotiations are not to be used in any manner with these or other proceedings involving Parties to this Settlement (id. at § VI(3)).

Should the Department not approve the Settlement in its entirety by December 27, 2002, the Settlement provides that it shall be deemed withdrawn and not constitute any part of the record in this proceeding or be used for any other purpose (id. at § VI(5); Joint Motion at 1).

### III. STANDARD OF REVIEW

In assessing the reasonableness of an offer of settlement, the Department reviews the entire record as presented in a company's filing and other record evidence to ensure that the settlement is consistent with applicable law, including relevant provisions of the Restructuring Act, Department precedent, and public interest. Boston Edison Company, D.P.U./D.T.E. 96-23, at 13 (1998); Berkshire Gas Company, D.P.U. 96-92, at 8 (1996); Boston Gas Company, D.P.U. 96-50, at 7 (Phase I) (1996). A settlement among the parties does not relieve the Department of its statutory obligation to conclude its investigation with a finding that a just and reasonable outcome will result. Essex County Gas Company, D.P.U. 96-70, at 5-6 (1996); Fall River Gas Company, D.P.U. 96-60, at 5 (1996).

### IV. ANALYSIS AND FINDINGS

Upon review of the record in this proceeding, the Department finds that, on balance, the Settlement represents a reasonable resolution of the transition charge issues in this proceeding. The Department finds that the Settlement's method of reconciling transition costs and revenues is consistent with the D.T.E. 97-120 and Department precedent. Moreover, the Settlement's method of reconciling transition costs and revenues substantially complies with the Restructuring Act and the public interest. Therefore, the Department approves the Settlement.<sup>4</sup>

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<sup>4</sup> The Department disallows the Settlement's claim of confidentiality set out at § VI(3). The claims are identical to the settlement provisions the Department disallowed in Boston Edison Company, D.T.E. 01-78 (Phase II), at 6, n. 8 (2002), Boston Edison Company, D.T.E. 00-82 (Phase II), at 9, n. 12 (2001), and Boston Edison Company, D.T.E. 99-107 (Phase II), at 11, n. 12 (2000). See Massachusetts Electric Company/Eastern Edison Company, D.T.E. 99-47, at 71-74 (2000). To the extent that  
(continued...)

Our approval of the Settlement relies in part on the stipulation by the Parties of the transition charge costs pertaining to the years 1998 through 2001, inclusive (Settlement at IV, citing Attachment 2 (Settlement)). The Settlement does not preclude the Department from investigating the costs and revenues associated with the Company's transmission, default service, and standard offer service for the same period.

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<sup>4</sup>(...continued)

the parties intend the assertion of confidentiality to be treated as a motion for protective treatment, it is premature.

V. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement and Offer of Settlement, submitted by Western Massachusetts Electric Company and the Attorney General on December 3, 2002, be and hereby is ALLOWED.

By Order of the Department,

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Paul B. Vasington, Chairman

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre K. Manning, Commissioner



Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).